

111TH CONGRESS
1ST SESSION

H. R. 2863

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for treatment of certain deferred executive compensation arrangements which is comparable to certain funding-based limits on benefits and benefit accruals imposed on defined benefit pension plans under the Pension Protection Act of 2006.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2009

Ms. WOOLSEY (for herself and Mr. BISHOP of New York) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend title I of the Employee Retirement Income Security Act of 1974 to provide for treatment of certain deferred executive compensation arrangements which is comparable to certain funding-based limits on benefits and benefit accruals imposed on defined benefit pension plans under the Pension Protection Act of 2006.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Worker-Executive Par-
5 ity Act of 2009”.

1 **SEC. 2. TREATMENT FOR COVERED DEFERRED EXECUTIVE**
 2 **COMPENSATION ARRANGEMENTS WHICH IS**
 3 **COMPARABLE TO CERTAIN FUNDING-BASED**
 4 **LIMITS ON BENEFITS AND BENEFIT ACCRU-**
 5 **ALS IMPOSED ON DEFINED BENEFIT PEN-**
 6 **SION PLANS.**

7 (a) IN GENERAL.—Section 206(g) of the Employee
 8 Retirement Income Security Act of 1974 (29 U.S.C.
 9 1056(g)) is amended—

10 (1) by redesignating paragraphs (9) and (10)
 11 as paragraphs (10) and (11), respectively; and

12 (2) by inserting after paragraph (8) the fol-
 13 lowing new paragraph:

14 “(9) COMPARABLE TREATMENT FOR COVERED
 15 DEFERRED EXECUTIVE COMPENSATION ARRANGE-
 16 MENTS.—

17 “(A) IN GENERAL.—In any case in which
 18 a limitation applies under paragraph (2), (3),
 19 or (4) for any plan year in the case of a defined
 20 benefit plan which is a single-employer plan—

21 “(i) no amount of deferred compensa-
 22 tion may accrue to a disqualified individual
 23 during such plan year under the terms of
 24 any covered deferred executive compensa-
 25 tion arrangement maintained by the plan
 26 sponsor (irrespective of whether the ac-

1 crual in deferred compensation is ex-
2 pressed in the form of a promise, a guar-
3 antee, or any other representation), and

4 “(ii) in the case of such an arrange-
5 ment established during or after the 1-year
6 period preceding such plan year (or any
7 amendment to such an arrangement if
8 such amendment is adopted during or after
9 such 1-year period), no distribution of ac-
10 crued deferred compensation may be made
11 under such arrangement (or such amend-
12 ment) to a disqualified individual during
13 such plan year.

14 “(B) COVERED DEFERRED EXECUTIVE
15 COMPENSATION ARRANGEMENT DEFINED.—

16 “(i) IN GENERAL.—For purposes of
17 this paragraph, the term ‘covered deferred
18 executive compensation arrangement’
19 means any arrangement providing for the
20 deferral of compensation of a disqualified
21 individual, whether or not—

22 “(I) compensation of the dis-
23 qualified individual which is deferred
24 under such arrangement is subject to
25 substantial risk of forfeiture,

1 “(II) the disqualified individual’s
2 rights to the compensation deferred
3 under the arrangement are no greater
4 than the rights of a general creditor
5 of the plan sponsor,

6 “(III) all amounts set aside (di-
7 rectly or indirectly) for purposes of
8 paying the deferred compensation (in-
9 cluding income), and all income at-
10 tributable to such amounts, remain
11 (until made available to the disquali-
12 fied individual or other beneficiary)
13 solely the property of the plan sponsor
14 (without being restricted to the provi-
15 sion of benefits under the arrange-
16 ment),

17 “(IV) the amounts referred to in
18 subclause (III) are available to satisfy
19 the claims of the plan sponsor’s gen-
20 eral creditors at all times (not merely
21 after bankruptcy or insolvency), and

22 “(V) some or all of the com-
23 pensation of the disqualified individual
24 which is deferred under such arrange-
25 ment is guaranteed by an insurance

1 company, insurance service, or other
2 similar organization.

3 “(ii) EXCEPTION FOR QUALIFIED AR-
4 RANGEMENTS.—Such term shall not in-
5 clude a arrangement that is—

6 “(I) described in section
7 219(g)(5)(A) of the Internal Revenue
8 Code of 1986, or

9 “(II) an eligible deferred com-
10 pensation plan (as defined in section
11 457(b) of such Code) of an eligible
12 employer described in section
13 457(e)(1)(A) of such Code.

14 “(C) DISQUALIFIED INDIVIDUAL DE-
15 FINED.—For purposes of this paragraph, the
16 term ‘disqualified individual’ means a director
17 or executive officer of the plan sponsor.”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to plan years begin-
20 ning on or after the date of the enactment of this Act.

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